U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 34580128

Date: OCT. 22, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish: 1) his eligibility as an individual of extraordinary ability, 2) he seeks to enter the United States to continue work in the area of extraordinary ability, and 3) his entry into the United States will substantially benefit prospectively the United States. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner asserts that our decision determining that the Petitioner did not demonstrate his intent to continue to work in his claimed area of expertise as a postsecondary teacher "was incorrect and also incomplete." At the outset, the majority of the evidence submitted in support of the motion to reopen relates to events occurring after the filing of the initial petition in January 2013. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Because the evidence does not establish his intent to work as a postsecondary teacher at the time he filed his petition, we need not further address it.

The Petitioner also argues that his doctor of juridical science degree (SJD) "is designed for lawyers who aspire to pursue a career in legal academics rather than practicing law." Although the Petitioner submitted screenshots from collegeconsensus.com regarding an SJD, the Petitioner did not show that simply possessing such a degree establishes his intent to work in the United States as a postsecondary teacher. As indicated in our decision, the Petitioner did not include any letters from prospective employers, evidence of prearranged commitments or contracts, or a statement detailing his plans on how he intends to continue his work in the United States as a postsecondary teacher. *See* 8 C.F.R. § 204.5(h)(5). In fact, as previously discussed in the decision, the Petitioner filed prior petitions claiming his intent work as a self-employed lawyer in international trade law and form his own legal practice without any mention of being a postsecondary teacher.

The Petitioner further claims that his "experience working as a part-time research assistant (on U.S. F-1 visa status) for Professor [S-F-] during the doctoral study, clearly demonstrates the petitioner's intent to continue to work in law teaching/postsecondary law teacher." The Petitioner submitted two letters confirming the Petitioner met the requirements for the SJD program and completed his dissertation. However, neither letter makes any indication of the Petitioner working as a part-time research assistant, nor did the Petitioner show how working as a part-time research assistant indicates experience as a postsecondary teacher, as well as intent to work as a postsecondary teacher in the United States.

For these reasons, the Petitioner did not show that his evidence overcomes the underlying grounds in our previous decision, and therefore, we will dismiss his motion to reopen.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3).

The Petitioner asserts that he "indeed had both direct and relevant experience as a postsecondary law teacher (postsecondary legal education), even including a rare S.J.D. degree aiming at preparing a lawyers for a career in legal academics." Notwithstanding the Petitioner's continuous claims and references to the submission of post-filing events, the Petitioner also argues that "there also exists a nexus between practicing and teaching/researching law, and thus the petitioner's competitive accomplishments as a lawyer are not completely irrelevant either and should be given consideration as well." We thoroughly addressed this issue in our prior decision, and the Petitioner has not shown how we erred as a matter of law or policy. We acknowledged the possibility of an individual's extraordinary claim in more than one field, such as teaching postsecondary students and practicing law. However, a petitioner must demonstrate "by clear evidence that the alien is coming to the United States to continue work in the area of expertise." *See* 8 C.F.R. § 204.5(h)(5). In this case, the Petitioner claimed his area of expertise as a postsecondary teacher without the record containing any evidence relating to his accomplishments, achievements, history, or experience as a teacher, let alone as a postsecondary teacher. Even if we considered his law evidence under the regulatory criteria, the Petitioner did not show how he intended to teach in postsecondary education in the United States at the time he filed his petition. Again, the Petitioner did not include any letters from prospective employers, evidence of prearranged commitments or contracts, or a statement detailing his plans on how he intends to continue his work in the United States as a postsecondary teacher.

Moreover, the Petitioner did not show how any of the documentation involved continuing to work as a postsecondary teacher in the United States. None of the Petitioner's prior filings made any mention of the Petitioner's past experience in postsecondary teaching. In fact, although he filed multiple motions regarding his first extraordinary petition and while this petition was pending, none of his motions made any mention of him teaching postsecondary students or otherwise involved postsecondary teaching. The Petitioner did not establish how he intended to continue to work in his area of postsecondary teaching when he has never worked in his purported area of expertise, nor did he show any interest from any higher education institutions willing to hire him at the time he filed his petition.

Because the Petitioner did not demonstrate his motion satisfies requirements for a motion to reconsider under 8 C.F.R. 103.5(a)(3), we will dismiss the motion to reconsider.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.